



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:  
FWS/R6/BA/FOIA

MAILING ADDRESS: Post Office Box 25486  
Denver Federal Center  
Denver, Colorado 80225-0486

STREET LOCATION: 134 Union Boulevard  
Lakewood, Colorado 80228-1807

January 31, 2019

Via email: [wildrockies@gmail.com](mailto:wildrockies@gmail.com)

Mike Garrity  
Executive Director  
Alliance for the Wild Rockies  
P.O. Box 505  
Helena, MT 59624

REF: FWS-2019-00323

Dear Mr. Garrity:

This letter is in regard to your Freedom of Information Act (FOIA) request dated January 24, 2019 for the following:

1. *Litchford and Hawkes Ditch Bill Easement Project Biological Opinion & Incidental Take Statement;*
2. *All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (1) above;*
3. *Big Flat and Frenchtown Irrigation Diversions Biological Opinion & Incidental Take Statement;*
4. *All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (3) above;*
5. *Saint Mary Diversion Biological Opinion & Incidental Take Statement;*
6. *All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (5) above;*
7. *Daly Ditch Irrigation Districts Hedge Diversion Replacement Project Biological Opinion & Incidental Take Statement;*
8. *All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (7) above;*
9. *Flint Creek Water Project East Fork of Rock Creek Biological Opinion & Incidental Take Statement;*
10. *All biological assessments, biological evaluations, monitoring, reports, and correspondence regarding (9) above.*

We have assigned your request tracking number FWS-2019-00323. Please refer to this number in communications regarding your request.

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We use Multitrack Processing to process FOIA requests. The Simple track is for requests that can be processed in one to five workdays. The Normal track is for requests that can be processed in six to twenty workdays. The Complex track is for requests that can be processed in twenty-one to sixty workdays. The Exceptional/Voluminous track is for requests requiring more than sixty workdays for processing. The Expedited track is for requests that have been granted expedited processing. Within each track, requests are usually processed on a first-in, first-out basis.

Your request falls into the Complex processing track. Because we will need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, we are taking a 10-workday extension under [43 C.F.R. § 2.19](#). We therefore expect that we will dispatch a determination to you by March 11, 2019.

We have classified you as an “Other” requester.

In consideration of your request for a fee waiver, pursuant to 5 C.F.R. § 4.11(k) (2010), we must evaluate whether disclosure of the requested information is: 1) in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and 2) not primarily in the commercial interest of the requester.

In determining whether your request meets the first fee waiver requirement, we considered the following factors:

- 1) Whether the subject of the requested records concerns the operations of activities of the Government.
- 2) Whether the disclosure is “Likely to contribute” to an understanding of Government operations or activities.
- 3) Whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.
- 4) Where the disclosure is likely to contribute “significantly” to public understanding of Government operations or activities.

In determining whether your request meets the second fee waiver requirement, we considered the following factors:

- 1) Whether the requester has a commercial interest that would be furthered by the requested disclosure.
- 2) Whether any identified commercial interests of the requester is sufficiently great, in comparison with the public interest in disclosure that disclosures are “primarily in the commercial interest of the requester.”

Based on the above criteria, we have determined that you adequately addressed the statutory requirements for a waiver of fees in your January 24, 2019 request. You have been granted a full waiver for the records requested. Please be advised however, granting this waiver does not automatically apply to future requests submitted by you or your organization. Requests for fee

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waivers are determined on a case-by-case basis for the records requested under statutory fee waiver requirements.

If you have any questions, you may contact Stacey Cummins by phone at 303-236-4473, by email at [fw6\\_foia@fws.gov](mailto:fw6_foia@fws.gov), or by mail at 134 Union Blvd, Lakewood, Colorado 80228.

Sincerely,

Stacey Cummins  
Region 6 FOIA Coordinator